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8 Attorney for Defendant

9  
10 **IN THE UNITED STATES DISTRICT COURT**  
11 **FOR THE DISTRICT OF ARIZONA**  
12

13 United States of America,  
14  
15 Plaintiff,  
16  
17 v.  
18 David Allen Harbour,  
19  
20 Defendant.  
21

No. CR-19-00898-PHX-DLR-(DMF)

MOTION TO WITHDRAW AS COUNSEL

22 Undersigned counsel respectfully request the Court enter an Order permitting Jason M.  
23 Silver of Silver Law PLC, to withdraw as counsel of record for Defendant David Allen Harbour.

24 Pursuant to L.R. Crim. P. 57.14 and Rule 83.3, undersigned counsel moves to withdraw  
25 based upon the following:

1. On July 30, 2019, Defendant was Indicted.
2. On August 29, 2019, the Court substituted Attorney Alan Baskin in as Counsel for Defendant, as the lead attorney.
3. On February 3, 2020, Attorney Mladen Zeljko Milovic filed his Notice of Appearance for Defendant.
4. On November 24, 2020, Plaintiff filed a Superseding Indictment, including Count 24, Tax Evasion, Count 25, False Statement and Count 26, Obstruction, all under Title 26.

- 1       5. On March 31, 2021, Attorney Ashley Adams filed a Notice of Appearance.
- 2       6. On April 8, 2021, undersigned counsel filed a Notice of Appearance and Association.
- 3       7. Undersigned counsel was brought into this case as a secondary support attorney on
- 4             only the Title 26 counts. All pleadings since undersigned counsel's appearance have
- 5             been filed by Attorney Baskin, Milovic or Adams. All motions in this case were to be
- 6             filed by Mr. Baskin's office relating to any exclusion of witnesses or limiting witness
- 7             testimony. Undersigned counsel has been the least involved attorney in this matter
- 8             and was in a mere support role.
- 9       8. Attorneys Baskin and Milovic filed an Ex Parte Motion to Withdraw as Counsel,
- 10            which was granted on December 21, 2021.
- 11       9. On January 11, 2022, Attorney Ashley Adams filed a Motion to Withdraw or
- 12            Alternatively to Continue Trial for a Period of 90 days, which is set before this Court
- 13            for hearing on January 25, 2022 at 1 p.m. Based upon Ms. Adams Motion, it appears
- 14            that with a proper continuance, Ms. Adams or another retained attorney could
- 15            represent the Defendant in the three tax counts.

16       In accordance with Arizona Supreme Court Rule 42, Rule of Professional Conduct  
17       ("ER") 1.16(a)(1), undersigned counsel ethically is required to withdraw from further  
18       representation of Defendant because continued representation would violate the Rules of  
19       Professional Conduct. A conflict of interest has arisen between counsel and Defendant that  
20       requires counsel to withdraw from this case. Undersigned counsel cannot elaborate further  
21       regarding the facts underlying the conflict of interest, in order to avoid disclosing confidential  
22       and attorney/client privileged information. Counsel's request to withdraw based upon a  
23       mandatory duty to withdraw under the Rules of Professional Conduct and avowal that there is a  
24       conflict of interest should be taken at face value, such that the court should not require the  
25       disclosure of confidential information. *Maricopa County Public Defender's Office v. Superior  
Court of Maricopa County*, 187 Ariz. 162, 927 P.2d 822 (App. 1996).

